IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4927 of 2024

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KHAMBHALIA NAGARPALIKA
Versus
KHATUBEN @ FATUBEN NATHUBHAI & ORS.
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Appearance:
MR RC KAKKAD(389) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3
MR YOGEN N PANDYA(5766) for the Respondent(s) No. 1
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CORAM:**HONOURABLE MRS. JUSTICE MAUNA M. BHATT**

Date : 27/03/2024

ORAL ORDER

1. Heard Mr.R.C.Kakkad, learned advocate for the petitioner. He submitted that the order of the appellate authority dated 28.12.2023 in Gratuity Appeal No.199 of 2023 directing the petitioner to pay difference of gratuity of Rs.7,91,840/- with interest @ 10% from 22.05.2022 till date of payment, is erroneous. Learned advocate submitted that as per the service book at Annexure L page 38 one Khatuben Nathu was working with petitioner – Nagarpalika as Safai Kamdar. Admittedly, Khatuben Nathu expired on 28.04.1998 and her death certificate is at Annexure B page 24. The pay slip also records name of employee as Khatuben Nathu. However, for the reasons best known to the respondent workman one Bloch Fatuben Kasambhai continued as Safai Kamdar after 1998 that

is after death of Khathuben Nathu. The application of gratuity made for the period from 1983 to 2021 has been made by filling form No.I, in which, name is referred as Khathuben @ Fatuben Nathubhai. The reason for gratuity has been shown as retirement which is not the case here, since Khathuben Nathu expired in the year 1998. Learned advocate for the petitioner submitted that the amount of gratuity Rs.3,12,568/- as directed by the controlling authority under order dated 05.09.2023 in Gratuity Case No.10 of 2023 for the period from 01.01.1998 to 28.04.1998 (upon death of Khathuben) has been paid. The appellate authority despite that awarded higher amount of gratuity by treating the service of Khathuben from 01.01.1983 to 31.01.2021.

2. Mr. Yogen Pandya, learned advocate appeared on caveat and stated that he would be filing his reply.

3. Considering the submissions, issue **Notice** returnable on **08.05.2024.**

4. Interim relief in terms of para 8(B) till next date of hearing.

(MAUNA M. BHATT,J)

NAIR SMITA V.